

Exhibit B

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

COPY

MEDRAD, INC.,

Plaintiff,

v.

TYCO HEALTHCARE GROUP LP,
MALLINCKRODT, INC.,
LIEBEL-FLARSHEIM CO. and
NEMOTO KYORINDO CO., LTD.,

Defendants.

Civil Action No. 01-1997

Judge Donald E. Ziegler

JURY TRIAL DEMANDED

PLAINTIFF MEDRAD'S ANSWER TO DEFENDANTS' COUNTERCLAIM

Plaintiff Medrad, Inc. ("Medrad"), through its counsel, hereby answers Counterclaim-Plaintiffs Tyco Healthcare Group LP, Mallinckrodt, Inc. and Liebel-Flarshcim Company's (collectively, "Counterclaim-Plaintiffs") Counterclaim.

ANSWER

Medrad responds to each of the correspondingly numbered paragraphs of the Counterclaim as follows:

37. Medrad admits that the Counterclaim purports to state a claim for monopolization and attempted monopolization and for a declaratory judgment, but denies that Counterclaim-Plaintiffs have any such claims or that any such claims are justified, or that Counterclaim-Plaintiffs have alleged any such claims upon which relief may be granted.

38. Admitted.

39. Admitted.

COUNT I

40. Medrad responds to paragraphs 28 through 36 as follows:

28. Denied.

29. The allegation that the Spectris MR Injector constitutes prior art to the '718 patent at least under 35 U.S.C. § 102(b) is a legal conclusion to which no response is required. To the extent a response is required, Medrad denies this allegation, but admits the remaining allegations of paragraph 29.

30. Medrad admits that it published an Operation Manual for the Spectris MR Injector. The remaining allegations of paragraph 30 constitute legal conclusions to which no response is required. To the extent a response is required, Medrad denies the remaining allegations of paragraph 30.

31. a. The allegations of subparagraph 31(a) constitute legal conclusions to which no response is required. To the extent a response is required, Medrad denies the allegations of subparagraph 31(a), except that Medrad admits that the application that led to the '718 patent was filed on July 30, 1999, with three claims.

b. The allegations of subparagraph 31(b) constitute legal conclusions to which no response is required. To the extent a response is required, Medrad denies the allegations of subparagraph 31(b).

c. The allegations of subparagraph 31(c) are legal conclusions to which no response is required. To the extent a response is required, Medrad denies the allegations of subparagraph 31(c), except that Medrad admits that on January 19, 2000, Medrad filed a Preliminary Amendment canceling claims 1-3 and adding claims 4-23.

d. Denied, except that Medrad admits that claim 8 depended from claim 4, claim 11 depended from claim 9, and claim 19 depended from claim 18.

e. Admitted.

f. Admitted.

g. Admitted.

h. Medrad denies that new claim 24 did not distinguish over the Spectris MR Injector, that it did not distinguish over the Cornacchia reference and that it did not explain how new claim 24 was patentable. Medrad admits the remaining allegations of subparagraph 31(h).

i. Medrad denies the allegations of subparagraph 31(i) to the extent they imply that phases other than contrast medium and flushing medium phases may be programmed in the Spectris MR Injector and that "KVO" is limited to the definition set forth in the Spectris MR Operational Manual. Medrad admits the remaining allegations of subparagraph 31(i).

j. The allegations of subparagraph 31(j) constitute legal conclusions to which no response is required. To the extent a response is required, Medrad denies the allegations of subparagraph 31(j).

k. Medrad admits that in the May 25, 2001 Amendment it made arguments concerning claims 24-103, that it presented the quoted passage concerning the Cornacchia patent, and that claims 24-103 are distinguishable over the Cornacchia patent. Medrad denies the remaining allegations of subparagraph 31(k).

l. Medrad admits that KVO can constitute a phase but otherwise denies the allegations of subparagraph 31(l).

m. Medrad admits the allegations of subparagraph 31(m) except that Medrad denies that "the Spectris MR Injector, however, has exactly this capability."

n. Denied.

o. Denied.

32. a. Denied.

b. Denied.

c. Denied.

d. Denied.

e. Denied.

f. Denied.

g. Denied.

h. Denied.

i. Denied.

j. Denied.

k. Denied.

l. Denied.

m. Denied.

n. Denied.

o. Denied.

33. Denied.

34. Denied.

35. Denied.

36. Denied.

Mcdrad's answers to paragraphs 37 through 39 are incorporated herein by reference as though fully set forth herein.

41. Admitted.

42. Admitted.

43. Medrad denies that the vascular injection system described in the '036 patent, the '648 patent and the '602 patent is simply a "medical injector" but otherwise admits the allegations of paragraph 43.

44. Admitted.

45. Medrad is without knowledge sufficient to form a belief as to the allegations of paragraph 45, and on that basis denies the same. Medrad admits that Tyco Healthcare, Mallinckrodt and/or L-F market a medical injector named "Optistar™" for use in MRI procedures.

46. Admitted.

47. Denied.

48. Denied.

49. Denied.

50. Denied.

51. Denied.

52. Denied.

53. Denied.

54. Denied.

55. Medrad admits that it filed with the USPTO an application for reissue of the '036 patent, which reissue application issued as the '648 reissue patent on April 11, 2000. Medrad denies the remaining allegations of paragraph 55.

56. Denied.

57. Denied.

58. Denied.

59. Denied.

60. Denied.

61. Denied.

62. Denied.

63. Medrad admits that it brought an action in the United States International Trade Commission, Investigation No. 337-TA-434, for unfair trade practices as a result of infringement by L-F. Mallinckrodt and Nemoto of the '648 reissue patent through importation of components for the Optistar™ Contrast Delivery System. Medrad denies the remaining allegations of paragraph 63.

64. Denied.

65. Medrad admits that it brought an action in the United States District Court for the Western District of Pennsylvania, Civil Action No. 00-799, against L-F, Mallinckrodt and Nemoto for infringement by L-F, Mallinckrodt and Nemoto of the '648 reissue patent through

the manufacture, importation, offer for sale and sale of the Optistar™ Contrast Delivery System. Medrad denies the remaining allegations of paragraph 65.

66. Denied.

67. Medrad denies that the '648 patent was held invalid as a result of Medrad's failure to comply with the procedures governing reissue patents. Medrad admits the remaining allegations of paragraph 67.

68. Medrad admits that it filed with the USPTO an application for reissue of the '648 reissue patent on or about November 16, 2000, which reissue application issued as the '602 reissue patent on March 26, 2002. Medrad denies the remaining allegations of paragraph 68.

69. Denied.

70. Denied.

71. Denied.

72. Denied.

73. Denied.

74. Denied.

75. Denied.

76. Denied.

77. Medrad admits that it filed an amended complaint on January 16, 2002, to allege infringement of the '718 patent. Medrad denies the remaining allegations of paragraph 77.

78. Denied.

79. Denied.

80. Denied.

81. Denied.

82. Denied.

COUNT II

83. Medrad's answers to paragraphs 28 through 82 are incorporated herein by reference as though fully set forth herein.

84. Admitted.

85. Admitted.

86. Denied.

87. Denied.

88. Denied.

89. Denied.

90. Admitted.

91. Denied.

92. Medrad admits that there is an actual controversy regarding infringement of the claims of the '203, '718 and '602 patents. Medrad denies the remaining allegations of paragraph 92.

93. Denied.

94. Denied.

96 [sic]. Denied.

Medrad denies that Counterclaim-Plaintiffs are entitled to any of the relief requested in the "Wherefore" clause of the Counterclaim.

WHEREFORE, Medrad demands judgment in its favor and against Counterclaim-Plaintiffs and the award of costs and attorneys' fees in defending this action. Medrad further demands that Medrad be awarded the relief as prayed in its Second Amended Complaint.

OTHER DEFENSES

By and for its other defenses, Medrad states:

1. The Counterclaim fails to state a claim upon which relief may be granted against Medrad under any theory.

2. Upon information and belief, Counterclaim-Plaintiffs have not suffered any damages due to the actions of Medrad alleged in the Counterclaim.


3. The Counterclaim fails to state with particularity its averments of fraud or mistake as required under Rule 9(b) of the Federal Rules of Civil Procedure.

4. The Counterclaim fails to set forth proper allegations of and fails to adequately define relevant product and geographic markets and must therefore be dismissed.

5. The Counterclaim fails to set forth a proper allegation of market power on the part of Medrad and as such, must therefore be denied.

Respectfully submitted,

Dated: July 31, 2002



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CERTIFICATE OF SERVICE

The undersigned hereby certifies that he or she has caused a true and correct copy of the foregoing **PLAINTIFF MEDRAD'S ANSWER TO DEFENDANTS' COUNTERCLAIM** to be served on the following counsel of record this 31st day of July, 2002, via United States Mail:

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